

**BOUTIN DENTINO GIBSON  
DI GIUSTO HODELL INC.**

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DANIEL W. FAERFERS and KATJA  
FAERFERS,

Plaintiffs,

vs.

CAVIAR CREATOR, INC., a Nevada  
Corporation, individually and as successor to  
CAVIAR CREATOR, INC., an Oregon  
Corporation,  
Defendants.

CAVIAR CREATOR, INC., a Nevada  
Corporation,

Counterclaimant/  
Cross-complainant,

v.

DANIEL W. FAERFERS, an individual; KATJA  
E. FAERFERS, an individual; SINCLAIR  
WILSON, an unknown business entity;

Counter-defendants/  
Cross-defendants.

) **Case No.: 2:04-CV-02690 MCE-PAN**

)  
) **STIPULATION FOR SINCLAIR WILSON**  
) **TO HAVE LEAVE TO ADD CROSS-**  
) **CLAIMS AND COUNTERCLAIMS;**  
) **PROPOSED ORDER**

**TO THE HONORABLE COURT:**

Pursuant to Rule 16(c) of the Federal Rules of Civil Procedure and Local Rule 83-143, Cross-Defendant Sinclair Wilson, Plaintiffs Daniel Faerfers and Katja Faerfers, and Defendant/Cross-Complainant Caviar Creator, Inc., respectfully submit the following Stipulation and Order for Sinclair Wilson to have leave to add cross-claims and counterclaims, so long as such claims are filed with any answer to the pending cross-complaint.

**RECITALS**

A. On July 15, 2005, the Court issued its Pretrial (Status) Scheduling Order (“Status Order #1”). The Status Order #1 expressly states, “All named defendants have been served and no further service is permitted without leave of Court, good cause having been shown.” Status Order #1 at ¶ I. The Status Order #1 also states, “No joinder of parties or amendments to pleadings is permitted without leave of Court, good cause having been shown.” Status Order #1 at ¶ II.

B. On or about July 28, 2005, Caviar Creator, Inc. caused to be filed and served on Sinclair Wilson a cross-complaint naming Sinclair Wilson as a cross-defendant for two causes of action. Prior to the filing of Caviar Creator, Inc.’s cross-complaint, Sinclair Wilson was not a party to this action.

C. On September 20, 2005, the Court issued an Amended Pretrial (Status) Scheduling Order (“Status Order 2”). The Status Order #2 contained the same respective restrictions as Status Order #1, stated *supra* paragraph “A.” See Status Order #2 at ¶¶ I-II.

D. As a party brought into this case after the Status Order #1 was issued, Sinclair Wilson seeks leave of the Court, in the interests of promoting judicial economy, to file any cross-claims or counterclaims along with its responsive pleadings.

**STIPULATION**

IT IS HEREBY STIPULATED between the parties, through their respective attorneys of record, that Sinclair Wilson has good cause to file and serve any cross-claims and counterclaims, should the need arise, in pleadings filed along with its responsive pleadings to the pending cross-complaint. Said “good cause” does not relate to the merits of any underlying cause of action; rather, good cause exists to permit Sinclair Wilson to file and serve such cross-claims or counterclaims.

IT IS ALSO STIPULATED between the parties, through their respective attorneys of record, that Sinclair Wilson has good cause to join any parties, should the need arise, in pleadings filed along with its responsive pleadings to the pending cross-complaint. Said “good cause” does not relate to the merits of any underlying cause of action; rather, good cause exists to permit Sinclair Wilson to join parties in such cross-claims or counterclaims.

1 IT IS ALSO STIPULATED between the parties, through their respective attorneys of record,  
2 that there is no opposition to Sinclair Wilson's request for leave from the Court to file and serve any  
3 cross-claims and counterclaims, against any current party or joined party, so long as such claims are  
4 filed with any answer to the pending cross-complaint.

5 IT IS FURTHER STIPULATED between the parties, through their respective attorneys of  
6 record, that the aforementioned stipulations do not constitute waiver of any defense to such cross-  
7 claims or counterclaims and any and all affirmative defenses or otherwise responsive pleadings  
8 allowable under the Federal Rules of Civil Procedure may be asserted against Sinclair Wilson's  
9 claims.

10 IT IS SO STIPULATED.

11  
12 Date: October 6, 2005

DIEPENBROCK ▪ HARRISON

13 /s/ Eileen Diepenbrock  
14 Eileen Diepenbrock, Attorney for  
15 Defendant/Cross-Complainant Caviar Creator, Inc.

16 Date: October 19, 2005

VAUGHAN & ASSOCIATES

17 /s/ Cris Vaughan  
18 Cris Vaughan, Attorney for Plaintiffs  
19 Daniel Faerfers and Katja Faerfers

20 Date: October 31, 2005

BOUTIN DENTINO GIBSON DI GIUSTO  
21 HODELL INC.

22 /s/ James P. Kirkley  
23 James P. Kirkley, Attorney for  
24 Cross-Defendant Sinclair Wilson

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**ORDER**

IT IS HEREBY ORDERED, good cause having been shown, that Sinclair Wilson may file and serve any cross-claims and counterclaims, including those which join new parties to this action, so long as such claims are filed along with its responsive pleadings to the pending cross-complaint.

IT IS SO ORDERED.

Dated: November 14, 2005

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE